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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,442	10/06/2000	Charles Eric Hunter	WT-11	2729

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EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,442

Applicant(s)

HUNTER ET AL.

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) in view of Looney et al (U.S. Pat. No. 5,969,283).

As per claims 1, 3-8, 12-15 and 21-22 Kleiman substantially discloses the claims system for distributing music to local electronic jukeboxes see., abstract, lines 1 and 2 (which is readable as Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

A data transmission system blanket transmitting a plurality of music selections to customer households in digital form (see., abstract, lines 5-9);

A user station at each of a plurality of customer households, the user station including; means for said customer household preselection of desired transmitted music (see., abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-40, fig 1, Its);

Means for said system preselection of desired transmitted music selections for recording (or download the music) see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1);

A receiver and associated high capacity storage medium for recording preselected music selections in digital form; an audio output for outputting audio signals

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from the storage medium to a playback device so that the customer household may playback those recorded music selections (fig 1, abstract, col 4, lines 21-31, col 6, lines 22-40);

A communications link between each customer household and the central controller system to verify to the controller system (see., abstract, lines 5-17);

Billing system associated with the central controller system to bill customer households for music selections that are made available for playback (see., col 5, lines 16-28). Kleiman fails to explicitly disclose that his central controller is for verifying when a preselected music selection has been made available. However, Looney discloses a music organizer and entertainment center wherein a CD-ROM and/or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive, see., Looney, col 2, lines 51-54. Accordingly, it would have been obvious to a person of ordinary skill in the art the time the invention was made to modify the music distribution of Kleiman by including the membership customer taught by Looney because this would provide the music distribution of Kleiman with the advantage of having an individual (ID or verification) for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

As per claims 2, 9-11, 16-20 and 23-37 Kleiman substantially discloses the claimed method for distributing music to local electronic jukeboxes via satellite see.,

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abstract, lines 1 and 2, col 7, lines 38-45 (which is readable as Applicant's invention wherein said a system for distributing music to customer households), comprising:

Blanket transmitting a plurality of music selections to customer households by direct broadcast satellite at data transmission rates faster than real time (see., abstract, col 7, lines 10-58, fig 1);

Providing each customer household with information available music selections that will be transmitted (see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1);

Permitting said each customer household to preselect and record desired music selections on a high capacity storage medium ;Permitting said each customer household to playback recorded music selections (see., abstract, col 4, lines 21-31, col 6, lines 22-40, fig 1);

Communicating music playback information from said each customer household to a central controller system (see., abstract);

Billing said customer households fro the recorded music selections that are made available for playback (see., col 5, lines 16-28). It is to be noted that Kleiman fails to explicitly disclose the step of identifying available music selections that will be transmitted. However, Looney discloses a music organizer and entertainment center wherein a CD-ROM and/or individual songs can include a special code or identification that is keyed to the user's system's code. In this manner only the user's system can load the songs on its hard drive see., Looney, col 2, lines 51-54. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was

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made to modify the music distribution of Kleiman by including the limitation detailed above as taught by Looney because this would provide the music distribution of Kleiman with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

CLAIM OBJECTION

3. Claim 1 is objected to because of the following informality. Claim 1, line 14, Applicant is advised to delete the pronoun "it". Appropriate correction is required.

CLAIM REJECTIONS- 35 USC 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 29 is objected under 35 U.S.C. 101 because claim 29 recites a single means plus functions.

Claim 34 is also rejected under 35 U.S.C 101 because claim 34 recites a single step.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent Examiner

February 05, 2004